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Attorney for Gabriel Mesa

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

2:13-CR-418-APG-VCF

Plaintiff,

vs.

GABRIEL MESA.

**MOTION TO REOPEN DETENTION
HEARING**
(Hearing Requested)

Defendant.

COMES NOW the defendant, GABRIEL MESA, by and through his attorney of record, Monique Kirtley, Assistant Federal Public Defender, and moves this Court to reopen his detention hearing.

This request is based on the Points and Authorities attached hereto.

DATED this 21st day of March, 2014.

RENE VALLADARES
Federal Public Defender

/s/ *Monique Kirtley*

By: MONIQUE KIRTLEY
Assistant Federal Public Defender

1 POINTS AND AUTHORITIES

2 The Defendant Mr. Gabriel Mesa (“Mr. Mesa”), was indicted on November 19, 2013. In his
3 indictment Mr. Mesa was charged with four counts of Possession of a Firearm by a Convicted Felon,
4 in violation of 18 U.S.C. § 922(g)(1) and one count of Possession of a Firearm Without a Removed
5 Serial Number, in violation of 26 U.S.C. § 5842. The indictment charges that in October, November
6 and December of 2012, Mr. Mesa on separate occasions, knowingly possessed various firearms.

7 On November 22, 2013, Mr. Mesa was brought before a Magistrate-Judge Foley for an
8 initial appearance. Immediately following the initial appearance, the court held a detention hearing.
9 The Magistrate-Judge ordered Mr. Mesa detained due to a serious risk of non-appearance and danger
10 to the community. The court determined, by preponderance of the evidence, that no condition or
11 combination of conditions would reasonably assure the appearance of Mr. Mesa and by clear and
12 convincing evidence, that no condition or combination of conditions which will assure the safety of
13 other persons or the community. Mr. Mesa now seeks to reopen his detention hearing.

14 In regards to the finding that Mr. Mesa is a serious risk of flight, Mr. Mesa submits that he
15 has strong family ties to this community. Mr. Mesa has lived in the Las Vegas community for thirty-
16 eight years. Mr. Mesa has lived at his present address for five years. Mr. Mesa’s wife, and children
17 reside in Las Vegas, Nevada. Since Mr. Mesa’s detention hearing new facts have developed which
18 would support his release on conditions.

19 First, the owner of Mario’s West Side Market, Mario Berlanga, Jr. has offered Mr. Mesa full
20 time employment at Mario’s West Side Market. *See Exhibit A: Letter from Mario Berlanga, Jr.*
21 Second, Mr. Mesa’s son has been accepted into the United States Marine Corps. In July of this year
22 he will be leaving for boot camp and would like the opportunity to spend time with his father prior
23 to leaving. *See Exhibit B: Letter from Anthony Joseph Mesa.* Third, and more importantly, since
24 Mr. Mesa’s detention, the family home is now facing foreclosure. *See Exhibit C: Letter from*
25 *Christina Berlanga.* Mr. Mesa’s wife, Christina, is unable to afford to pay the house mortgage by
26 herself. If the Court would grant Mr. Mesa’s release, he would immediately begin working at
27 Mario’s West Side Market. The income he earns from Mario’s will make a difference in the family
28 being able to keep their home. Christina has further informed undersigned counsel that she is willing

1 to serve as a third party custodian, if the Court was willing to release Mr. Mesa. Christina and Mr.
2 Mesa have been together for over twenty-three years. She realizes the importance and obligations
3 of being a third party custodian. She, as well as Mr. Mesa, are taking this case very seriously and
4 she has no problem in informing pretrial services, and the Court, if Mr. Mesa fails to abide by any
5 release conditions that this Court finds appropriate.

6 In regards to finding that Mr. Mesa is a danger to the community, the court noted that Mr.
7 Mesa has a 1993 conviction for relating to murder with a deadly weapon. Mr. Mesa re-submits the
8 fact that the 1993 conviction was for **attempted** murder with a deadly weapon. The Court relied on
9 this conviction for one of its basis for detention. However, this conviction as noted by the court
10 occurred in 1993. That is over twenty-one years ago. Mr. Mesa has not engaged in any other violent
11 activity since 1994. Mr. Mesa firmly believes that there are conditions that this Court can impose
12 which will guarantee the safety of others and the community.

13 Mr. Mesa is willing to submit to any strict terms or conditions set by this Court to guarantee
14 his future presence and the safety of the community. Mr. Mesa is willing to submit to, alcohol
15 testing, drug testing, electronic monitoring, curfew, and house arrest. Mr. Mesa's wife is willing
16 to be a third party custodian on his behalf.

17 CONCLUSION

18 Due to the above, Mr. Mesa respectfully request that this Court reopen his detention hearing
19 and release him on his personal recognizance, or on bond, subject to any combination of conditions
20 this Court deems appropriate.

21 DATED this 21st day of March, 2014.

22 Respectfully submitted,

23 RENE VALLADARES
24 Federal Public Defender

25 /s/ Monique Kirtley

26 By: _____
27 MONIQUE KIRTLEY
28 Assistant Federal Public Defender

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 The undersigned hereby certifies that she is an employee of the Law Offices of the
3 Federal Public Defender for the District of Nevada and is a person of such age and discretion as
4 to be competent to serve papers.

5 That on March 21, 2014, she served an electronic copy of the above and foregoing **MOTION**
6 **TO REOPEN DETENTION HEARING**, (Hearing Requested, by electronic service (ECF) to the
7 person named below:

8 DANIEL G. BOGDEN
9 United States Attorney
10 CRISTINA D. SILVA
11 Assistant United States Attorney
12 333 Las Vegas Blvd. So., 5th Floor
13 Las Vegas, Nevada 89101

14 */s/ Blanca Lenzi*
15 Employee of the Federal Public Defender

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